

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
SHERREL A. BAKER

Sherrel A. Baker (Baker) and the Missouri Real Estate Commission (MREC) enter into this Settlement Agreement for the purpose of resolving the question of whether Baker's license as a broker officer, no. 1999021902, will be subject to discipline. Pursuant to § 536.060, RSMo 2000,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the MREC under § 621.110, RSMo Supp. 2012. The MREC and Baker jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Supp. 2012.

Baker acknowledges that she understands the various rights and privileges afforded her by law, including the right to a hearing of the charges against her; the right to appear and be represented by legal counsel; the right to have all charges proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing against her at

¹ All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

the hearing; the right to present evidence on her behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against her; the right to a ruling on questions of law by the Administrative Hearing Commission; the right to a disciplinary hearing before the MREC at which time Baker may present evidence in mitigation of discipline; the right to a claim for attorney fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the MREC.

Being aware of these rights provided to her by law, Baker knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to her.

Baker acknowledges that she has received a copy of documents that were the basis upon which the MREC determined there was cause for discipline, along with citations to law and/or regulations the MREC believes were violated. Baker stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Baker's license as a broker officer, license no. 1999021902, is subject to disciplinary action by the MREC in accordance with the relevant provisions of Chapter

621, RSMo, and §§ 339.010 to 339.205 and 339.710 to 339.855, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREC and Baker in Part II herein is based only on the agreement set out in Part I herein. Baker understands that the MREC may take further disciplinary action against her based on facts or conduct not specifically mentioned in this document that are either now known to the MREC or may be discovered.

I.
Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, the MREC and Baker herein jointly stipulate to the following:

1. Baker holds a license as a real estate broker officer with the MREC, license no. 1999021902, which was current and active at all times relevant herein.
2. At all relevant times herein, Baker was the designated broker for Baker Realty Agency Inc., which is licensed as a real estate corporation, license no. 000005346, as well as the broker officer associated with Angela McGrath ("McGrath"), a real estate salesperson, license no. 1999118547.

3. On or about September 30, 2012, McGrath's real estate salesperson license expired. McGrath's license was not renewed until on or about November 26, 2012.

4. Between approximately September 30, 2012, and November 26, 2012, Baker continued to allow McGrath to participate in real estate listings without a license. McGrath also received commissions and/or other valuable consideration for her real estate services provided through Baker Realty Agency Inc.

5. McGrath's conduct, as described above, was in violation of § 339.020, RSMo Supp. 2012, which provides as follows:

It shall be unlawful for any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, foreign or domestic, to act as a real estate broker, real estate broker-salesperson, or real estate salesperson, or to advertise or assume to act as such without a license first procured from the commission.

6. McGrath's conduct, as described above, was in violation of § 339.180.1, RSMo Supp. 2012, which provides in relevant part as follows:

It shall be unlawful for any person or entity not licensed under this chapter to perform any act for which a real estate license is required.

7. McGrath's conduct, as described above, was in violation of § 339.200.1, RSMo Supp. 2012, which provides in relevant part as follows:

It shall be unlawful for any person not holding the required license from the commission to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission may cause a complaint to be filed with the administrative hearing commission, as provided in chapter 621, against any unlicensed person who:

- (1) Engages in or offers to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860; or
- (2) Uses or employs titles defined and protected by this chapter, or implies authorization to provide or offer professional services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person holds any license required by sections 339.010 to 339.180 and sections 339.710 to 339.860.

8. As the designated broker for Baker Realty Agency Inc., Baker was responsible for supervising McGrath's real estate-related activities pursuant to 20 CSR 2250-8.020(1), which provides in relevant part as follows:

Individual brokers, designated brokers, and office managers/supervising brokers shall be responsible for supervising the real estate related activities including the protection of any confidential information as defined under 339.710.8, RSMo of all licensed and unlicensed persons associated with them, whether in an individual capacity or through a corporate entity, association or partnership.

9. Baker's conduct, as described above, constitutes a violation of § 339.150.1 and .2, RSMo Supp. 2012, which state in relevant part as follows:

1. No real estate broker shall knowingly employ or engage any person to perform any service to the broker for which licensure as a real estate broker or a real estate salesperson is required pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860, unless such a person is:

(1) A licensed real estate salesperson or a licensed real estate broker as required by section 339.020[.]

...

Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.

10. Section 339.100.2, RSMo Supp. 2012, provides in relevant part as follows:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

.....

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

.....

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and

sections 339.710 to 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860;

.....

(23) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 who is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections 339.710 to 339.860[.]

11. By engaging in the conduct described above, Baker paid a commission or valuable consideration to McGrath for acts or services performed in violation of §§ 339.010 to 339.180 and §§ 339.710 to 339.860, RSMo Supp. 2012, including §§ 339.020, 339.180.1, and 339.200.1, RSMo Supp. 2012; therefore, cause exists for discipline pursuant to § 339.100.2(7), RSMo Supp. 2012.

12. By engaging in the conduct described above, Baker violated or attempted to violate and/or assisted or enabled McGrath to violate provisions of §§339.010 to 339.180 and §§ 339.710 to 339.860, RSMo and/or 20 CSR 2250-8.020(1); therefore, cause exists for discipline pursuant to § 339.100.2(15), RSMo Supp. 2012.

13. By engaging in the conduct described above, Baker assisted or enabled McGrath to practice or offer to practice a profession licensed or

regulated under §§ 339.010 to 339.180 and §§ 339.710 to 339.860, RSMo Supp. 2012 who was not registered or eligible to practice; therefore, cause exists for discipline pursuant to § 339.100.2(23), RSMo Supp. 2012.

II. Joint Agreed Disciplinary Order

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the MREC in this matter under the authority of § 536.060, RSMo, and §§ 621.045.4 and 621.110, RSMo Supp. 2012.

14. Terms and conditions of the disciplinary period. The terms and conditions of the disciplinary period are as follows:

A. Baker agrees to pay a civil penalty of \$500. Said penalty is authorized under § 339.205, RSMo Supp. 2012.

B. Baker agrees to pay the \$500 civil penalty by certified check made payable to the “Missouri Real Estate Commission, State of Missouri” and mailed to Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102-1339. Baker shall postmark and mail or hand deliver said check within 60 days of the date when this Settlement Agreement becomes effective.

C. Funds received pursuant to this agreement shall be handled in accordance with Section 7 of Article IX of the Missouri Constitution. Section 339.205.8, RSMo. Supp. 2012.

D. In the event the MREC determines that Baker has failed to pay any portion of the \$500 agreed upon herein or has violated any other term or condition of this Settlement Agreement, the MREC may, in its discretion: (1) notify the Attorney General who “may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs and a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed” under § 339.205.4, RSMo Supp. 2012; (2) after an evidentiary hearing, vacate and set aside the penalty imposed herein and may probate, suspend, revoke, or otherwise lawfully discipline Baker’s license under § 324.042, RSMo. Supp. 2012; and (3) deny, discipline, or refuse to renew or reinstate Baker’s license under § 339.205.7, RSMo Supp. 2012.

15. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Baker of §§ 339.010 to 339.205 and 339.710 to 339.855, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

16. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either now known to the MREC or may be discovered.

17. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the parties agree that the MREC may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Baker agrees and stipulates that the MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

18. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

19. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

20. The parties to this Settlement Agreement understand that the MREC will maintain this Settlement Agreement as an open record of the MREC as required by Chapters 324, 339, and 610, RSMo, as amended.

21. Baker, together with her partners, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit

and forever discharge the MREC, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo (as amended), or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

22. Baker understands that she may, either at the time the Settlement Agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Baker's license. If Baker desires the Administrative Hearing Commission to review this Settlement Agreement, Baker may submit her request to: Administrative Hearing Commission, Truman State Office

Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City,
Missouri 65102.

23. If Baker requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Baker's license. If the Administrative Hearing Commission issues an order stating that the Settlement Agreement does not set forth cause for discipline, then the MREC may proceed to seek discipline against Baker as allowed by law. If Baker does not request review by the Administrative Hearing Commission, this Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREC.

LICENSEE

Missouri Real Estate Commission

Sherrel A. Baker 12-23-13
Sherrel A. Baker Date

Janet Carder
Janet Carder, Executive Director
Date: 1-7-13

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